

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 415 of 1994

Date of decision: 16-11-1998

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JAIVADAN NATHUBHAI SHAH

Versus

KANTILAL MAYADAS PANCHAL

Appearance:

Ms. M. S. Panchal for Petitioner

Ms. D. T. Shah for Respondent No. 1

CORAM : MR.JUSTICE M.B.SHAH

Date of decision: 16/11/98

ORAL JUDGEMENT

The judgment debtor filed this civil revision application before this court challenging the order of the executing court dated 9th February, 1994 passed below Exh.42. Under the said order the learned executing court made absolute the order of attachment of the vehicle Maruti Car No.CJ-1-5962 belonging to the defendant. It was the case of the judgment debtor before the executing court that the decree passed against him stood satisfied. The learned executing court accepted the claim of the judgment creditor. Hence this revision application before this court.

2. Heard the learned counsel for the parties.

3. Learned counsel for the petitioner has failed to show any documentary evidence of payment of decretal amount. Provisions of Order 21 Rule 2A of C.P. Code are very clear and in case the decretal amount is paid out of court then there must be evidence of payment and the proof should be recorded to satisfy the decree. Reference in this case may be made to sub-rule (1) of Rule 2 of Order 21 of C.P.C. In absence of proof of payment as well as recording satisfaction of the decree by the court, learned executing court has not committed any error in exercising jurisdiction in passing the impugned order which calls for interference of this court under section 115 of C.P.C.

3. The civil revision application is dismissed with costs. The cost is quantified at Rs.1500/- which is the amount of fees paid by the judgment creditor to his advocate. Office is directed to send the R & P forthwith.

16-11-198 (S. K. KESHOTE,J)